

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF TEXAS
3

4 THE HONORABLE VANESSA D. GILMORE, JUDGE PRESIDING
5

6 UNITED STATES OF AMERICA, No. 4:20-cr-00522-1
7

8 Plaintiff,
9

VS.
10

11 LEE E. PRICE, III,
12

13 Defendant.
14

15 SENTENCING HEARING
16

17 OFFICIAL REPORTER'S TRANSCRIPT OF PROCEEDINGS
18

19 Houston, Texas
20

21 November 29, 2021
22

23 APPEARANCES:
24

25 For the Plaintiff: Matthew G. Grisier
Andrew Tyler
26

27 For the Defendant: Thomas S. Berg
28

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Southern District of Texas
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30

31 Proceedings recorded by mechanical stenography. Transcript
32 produced by Reporter on computer.
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1 PROCEEDINGS
2

3 (The following proceedings held in open court.)

4 * * *

5 THE COURT: United States of America versus
6 Lee Price. For the United States?
7 Who is here for the United States?
8 MR. GRISIER: Matthew Grisier with Andrew
9 Tyler.

10 THE COURT: Who did you say?

11 MR. GRISIER: I apologize, Your Honor.

12 Matthew Grisier for the United --

13 THE COURT: Grisier?

14 MR. GRISIER: Yes. With me is co-counsel,
15 Andrew Tyler.

16 THE COURT: Tyler? All right.

17 For the defendant, please?

18 MR. BERG: Tom Berg.

19 THE COURT: Mr. Berg.

20 We're here this morning for sentencing.

21 Mr. Grisier, has the United States had a
22 chance to review the presentence investigation report and
23 addendum to that report?

24 MR. GRISIER: Yes, we had.

25 THE COURT: Mr. Berg, did you and your

10:39:30 1 client get a chance to review the presentence
10:39:32 2 investigation, as well as the addendum to that report?

10:39:35 3 MR. BERG: We did.

10:39:36 4 THE COURT: Then presentence investigation
10:39:37 5 and addendum will be placed into the record under seal.
10:39:41 6 In the event there is any appeal of this case, the only
10:39:43 7 portion that will not be disclosed will be that portion
10:39:45 8 that contains a sentencing recommendation from the
10:39:48 9 probation department to the Court.

10:39:51 10 There were objections by the United States
10:39:56 11 and by the defense.

10:39:57 12 Let me turn first to the government's
10:40:00 13 objection. The government essentially objects to the
10:40:06 14 calculation, basically the base-offense-level issue, which
10:40:12 15 I've looked at and looked at again with the probation
10:40:16 16 department.

10:40:17 17 And I think that the probation department
10:40:19 18 got it right. When we have to go back and look at 2B1.1
10:40:27 19 in calculating it, it comes out to be a 27.

10:40:52 20 I guess it's y'all's position you think it
10:40:55 21 should be 28. We should use A and not B?

10:41:00 22 MR. GRISIER: That's correct, Your Honor.

10:41:01 23 THE COURT: Have you looked at it again
10:41:02 24 since you looked at the addendum?

10:41:04 25 MR. GRISIER: I have, Your Honor, as has

10:41:05 1 co-counsel. Representation that I have is that
10:41:09 2 essentially what we did was calculate using
10:41:15 3 2S1.1(a)(1)(A) --

10:41:15 4 THE COURT: I have to go back to B; to
10:41:19 5 B1.1. It refers me back. I have to look at 2B1.1; then I
10:41:24 6 have to look at B.

10:41:25 7 MR. GRISIER: It's the 2S1.1(a)(2) that
10:41:28 8 refers back to 2B1.1. We're looking at 2S1.1(a)(1).

10:41:32 9 THE COURT: I know. But then you've got a
10:41:35 10 1957. I have to go back to 2B1.1. You started out as 18
10:41:40 11 USC Section 1957.

10:41:43 12 Anyway, the government's objection is
10:41:45 13 overruled. I think that it's a 27 and not a 28.

10:41:50 14 MR. GRISIER: Understood.

10:41:51 15 THE COURT: I think it's appropriately
10:41:52 16 calculated by the probation at the lower number.

10:41:57 17 I think that's the only objection of yours
10:41:59 18 that you had that hasn't been addressed by the addendum.
10:42:02 19 Is that correct?

10:42:02 20 MR. GRISIER: That is correct, Your Honor.

10:42:04 21 THE COURT: Then let me go to the
10:42:07 22 defendant's objection.

10:42:09 23 Mr. Berg, your objections are essentially
10:42:12 24 that you don't think that he should get the specific
10:42:15 25 offense characteristic in paragraph 50 for the more than

10:42:19 1 one million because he got less than a million dollars
10:42:22 2 from each of the two banks that he defrauded and that I
10:42:25 3 should not aggregate those amounts for the \$1.7 million
10:42:30 4 that he got to give him the plus-two.

10:42:33 5 Is that basically it?

10:42:34 6 MR. BERG: That is basically it. That is
10:42:36 7 how I read those provisions.

10:42:38 8 THE COURT: The objection is overruled.

10:42:39 9 And then the second objection is to
10:42:41 10 essentially paragraph 53, the obstruction of justice.

10:42:45 11 Look, really? He's going to try to say he
10:42:52 12 didn't obstruct. He's going out there telling witnesses
10:42:56 13 not to talk to the government; that's obstruction. That's
10:42:59 14 like ridiculous.

10:43:01 15 So that objection is overruled.

10:43:05 16 On the other hand, I will give you the
10:43:06 17 three points for acceptance of responsibility because he
10:43:10 18 did at least try to accept responsibility at the end.
10:43:12 19 I'll give you the three points for acceptance of
10:43:15 20 responsibility. That takes the total offense level in
10:43:18 21 paragraph 57 to 26, which changes the guideline range in
10:43:26 22 paragraph -- changes the guideline range in paragraph 105,
10:43:38 23 I guess it is, to -- that changes that to 110 to 137.

10:43:55 24 Does it change the fine range?

10:43:59 25 THE PROBATION OFFICER: The bottom of the

10:43:59 1 fine range is 25,000.

10:44:01 2 THE COURT: Then the fine range in
10:44:04 3 paragraph --

10:44:20 4 THE PROBATION OFFICER: I believe it's
10:44:21 5 114.

10:44:22 6 THE COURT: That changes the range from
10:44:25 7 \$25,000 to \$4,045,265.46.

10:44:32 8 Mr. Berg, was there any other factual
10:44:34 9 inaccuracies in the report that could have an impact on
10:44:39 10 sentencing at all?

10:44:40 11 MR. BERG: No, Your Honor.

10:44:40 12 THE COURT: The Court adopts the
10:44:42 13 presentence investigation report and the addendum with the
10:44:45 14 changes that the Court has just made today. Finds that
10:44:47 15 the statutory range of punishment on Counts 1 and 2 is not
10:44:51 16 more than 20 years; Counts 3, 4, 5, not more than ten
10:44:55 17 years. Supervised release on Counts 1 through 5 not more
10:45:00 18 than three years. Fine \$4,045,265.46. Restitution
10:45:10 19 \$1,689,952. Special assessment is \$500.

10:45:14 20 Under the sentencing guidelines, based on
10:45:17 21 the total offense level of 26, Criminal History Category
10:45:19 22 of V, provides for a guideline range of 110 to 137 months.
10:45:25 23 Supervised release term of one to three years. Fine range
10:45:30 24 \$25,000 to \$4,045,265.46. Restitution \$1,689,952.
10:45:41 25 Special assessment is \$500.

10:45:44 1 All right, Mr. Berg, would you like to say
10:45:49 2 anything on behalf of your client?

10:45:51 3 MR. BERG: Well, my client -- I would like
10:45:53 4 him to speak first.

10:45:55 5 THE COURT: He wants to speak first?

10:45:56 6 MR. BERG: Yes. He and I spent a long
10:45:58 7 time getting to this point where he can speak well as to
10:46:02 8 his circumstances.

10:46:04 9 THE COURT: All right. That's fine.

10:46:05 10 Mr. Price, what would you like to say?

10:46:11 11 THE DEFENDANT: I wrote a letter to you as
10:46:17 12 well I stand before you guilt.

10:46:33 13 THE COURT: Speak into the mic. I want to
10:46:35 14 be able to hear what you're saying.

10:46:36 15 THE COURT REPORTER: Excuse me, Your
10:46:36 16 Honor, I can't hear the defendant.

10:46:36 17 THE COURT: Speak up.

10:46:36 18 THE DEFENDANT: I stand before you a
10:46:38 19 guilty man. Guilty of having made a terminal mistake and
10:46:41 20 all honesty, it was mistake because you knew better
10:46:44 21 (indiscernible) would bring --

10:46:46 22 THE COURT: Slow down. I want to hear
10:46:48 23 what you're saying. You need to go slower and a lot
24 louder.

25 THE COURT REPORTER: Your Honor, I cannot

1 hear the defendant.

2 (Due to defendant's mask and inadequate
3 sound system, defendant's statement could not be
4 reported.)

10:51:03 5 THE COURT: Did you look at your criminal
10:51:05 6 history?

10:51:06 7 You don't have a year since you were 15
10:51:08 8 that you weren't involved in something in the criminal
10:51:10 9 justice system. Not one year. Every single year; 27
10:51:16 10 different offenses charged against you since you were 15
10:51:18 11 years old. I have never seen a criminal history like
10:51:21 12 this. You haven't tried to do anything with your life at
10:51:28 13 all. What is the deal?

10:51:32 14 Talk to me. Stop reading stuff to me.
10:51:34 15 Talk to me.

10:51:36 16 THE DEFENDANT: That's kind of the first
10:51:37 17 time I actually had which I knew -- I have -- I'm -- when
10:51:42 18 I actually had there and look at it. It was more of a --

10:51:54 19 THE COURT: This is you. Every single
10:51:58 20 year since you were 15, 16 years old you've had an
10:52:04 21 allegation of a crime. You didn't get convicted of all of
10:52:06 22 them. Some of them they just let go because you got
10:52:10 23 convicted of other crimes. So they kind of rolled them
10:52:13 24 all together.

10:52:14 25 I couldn't believe it. It's page after

10:52:16 1 page after page after page. This guy -- I look at your
10:52:22 2 family history, and it doesn't look like this is the kind
10:52:24 3 of life you should have had based on that family that you
10:52:33 4 came from. It doesn't look like it goes together.

10:52:36 5 You got a GED, went to college for a
10:52:38 6 minute, and then you just decided that you were just going
10:52:43 7 to be a thief. You just kind of made up your mind one
10:52:46 8 day, I'm just going to be a thief or what?

10:52:48 9 THE DEFENDANT: No. I think it was -- I
10:52:51 10 was running with a lot of (indiscernible) when I came out
10:52:53 11 here to Houston, I started college at Texas Southern. I
10:52:58 12 ran with a lot of older crowds that were -- and no way on
10:53:03 13 the right path.

10:53:04 14 THE COURT: Uh-huh.

10:53:05 15 THE DEFENDANT: So I kind of got pulled
10:53:08 16 towards a certain direction. Honestly, at that time
10:53:10 17 coming up, I enjoyed it. I liked it. It was a life that
10:53:15 18 I chose. And as growing up and now obviously having a
10:53:20 19 child now and seeing, you know, exactly how much it's
10:53:25 20 costing me, and just watching news recently, I was seeing
10:53:29 21 so many deaths popped up, I decided what if I had died?
10:53:33 22 Now when I got really -- my obituary that was something
10:53:38 23 that I could not (indiscernible) myself.

10:53:45 24 THE COURT: What's your future plan?

10:53:47 25 THE DEFENDANT: I enrolled in school. I

10:53:49 1 plan on taking my credits. I'm working on curriculum.
10:53:54 2 I'm following it, but they don't offer mail
10:53:57 3 correspondence. I been working on university that I can
10:54:00 4 transfer courses. Put the work in getting my degree in
10:54:05 5 sociology.

10:54:06 6 And I do plan on -- hopefully I'm going
10:54:11 7 into real estate investment full time; not just jumping
10:54:17 8 fences, hurdling the fence with illegal and legal --

10:54:21 9 THE COURT: You need to slow your roll.
10:54:26 10 You're just 30 years old, and you have this much criminal
10:54:30 11 history. You need to slow your roll. You'll be dead
10:54:33 12 before you're 40.

10:54:34 13 This doesn't make any sense. It literally
10:54:38 14 doesn't make any sense. You have a dad who retired from a
10:54:44 15 job that he spent 30 years in, a good job, and a mom who
10:54:51 16 is doing good stuff, and parents who were trying to figure
10:54:56 17 out how to make the best of the divorce situation and go
10:55:01 18 back and having an opportunity to be parented by both
10:55:05 19 parents. This makes literally no sense.

10:55:16 20 Then you mess up your mom's house by
10:55:19 21 putting money on her house. You messed up her deal. What
10:55:25 22 did you do pay off the mortgage or something?

10:55:27 23 THE DEFENDANT: Yes.

10:55:27 24 THE COURT: You thought you were doing her
10:55:30 25 a favor by paying her mortgage off with stolen money. It

10:55:35 1 didn't turn out to be a good favor. Now she's going to
10:55:38 2 have a big-ass lien on her house.

10:55:39 3 THE DEFENDANT: Yes.

10:55:40 4 THE COURT: Did you tell her that she had
10:55:41 5 the lien on her house?

10:55:42 6 THE DEFENDANT: Yes.

10:55:45 7 THE COURT: They work hard in regular
10:55:47 8 jobs. Then you show up like you're the lottery dude.

10:55:52 9 That makes no sense at all. Mess up your mom's whole
10:55:57 10 deal. That makes no sense. You going to mess up her
10:56:03 11 house that she already lived in -- how long had she lived
10:56:06 12 in that house before you did that?

10:56:10 13 THE DEFENDANT: Maybe since '97.

10:56:17 14 THE COURT: When?

10:56:18 15 THE DEFENDANT: Maybe since '97.

10:56:21 16 THE COURT: So 20 years. She been paying
10:56:23 17 on the mortgage for 20 years. Doing fine on her own I
10:56:26 18 guess.

10:56:27 19 THE DEFENDANT: Yes, Your Honor.

10:56:28 20 THE COURT: Then you come in and you're
10:56:30 21 like big man on campus and put \$50,000 on her mortgage and
10:56:35 22 make her seem like it's all good. Now she's got a big
10:56:39 23 lien from the government on her house that she had already
10:56:41 24 been paying for 20 years. Mess up her whole deal. Makes
10:56:54 25 no sense. Then -- after you get out the jail, you going

10:57:02 1 to be a real estate investor? Is that what you said?

10:57:04 2 THE DEFENDANT: Yes, Your Honor. I still
10:57:06 3 have partial real estate company now that my child's
10:57:09 4 mother operates that we have together, and I plan on
10:57:14 5 getting back into the business.

10:57:22 6 THE COURT: Okay. All right.

10:57:26 7 Mr. Berg, would you like to say anything
10:57:28 8 else on behalf of your client?

10:57:29 9 MR. BERG: I would. My first words to my
10:57:31 10 client when we met were that a con man above all cons
10:57:38 11 himself.

10:57:38 12 THE COURT: Pardon me?

10:57:40 13 MR. BERG: A con man above always cons
10:57:42 14 himself before he cons anybody else. And Mr. Price's
10:57:45 15 struggle will be, as it has been, in not deceiving himself
10:57:51 16 as well as deceiving others.

10:57:54 17 Like I said, we've spent months over this
10:57:58 18 particular issue: Getting him to acknowledge his
10:58:02 19 responsibility. We got there I think, at least in terms
10:58:05 20 of acceptance of responsibility for this, and he is taking
10:58:09 21 some affirmative steps to get more education and a bit
10:58:16 22 more focus in his life. It will be a battle not to take
10:58:19 23 the easy way. That is his struggle. And we can only do
10:58:24 24 so much.

10:58:28 25 And regardless, even with the advantages

10:58:32 1 of the lower sentencing guidelines that we've got, he's
10:58:35 2 going to do a substantial sentence for this crime. And he
10:58:41 3 needs -- I've reiterated to him constantly that he needs
10:58:46 4 to take advantage of that time, to do things that are
10:58:49 5 positive. If he's to have a relationship with his child,
10:58:52 6 he's got to work on himself.

10:58:56 7 THE COURT: Absolutely.

10:59:05 8 MR. BERG: But I think he's capable of
10:59:07 9 doing it. He's talented and intelligent, but it's
10:59:10 10 misspent.

10:59:15 11 THE COURT: I like that con man's first
10:59:18 12 con is himself. He's trying to convince himself what he
10:59:21 13 was doing was some legitimate business deal here. This
10:59:23 14 was nothing but theft. No different than sticking up a
10:59:27 15 store. Sticking up a bank.

10:59:34 16 Anything from the United States,
10:59:37 17 Mr. Grisier?

10:59:38 18 MR. GRISIER: Yes, Your Honor. The
10:59:39 19 motivating factors here appears to have been the
10:59:42 20 defendant's guilt -- excuse me, his greed. And as a
10:59:47 21 result of his greed, the defendant obtained \$1.6 million
10:59:50 22 in funds set aside by Congress and the Small Business
10:59:56 23 Administration for small business relief during the
10:59:58 24 uncertain months of the COVID pandemic.

11:00:01 25 As a result of the defendant's greed that

11:00:04 1 meant that through these fraudulent applications he took
11:00:07 2 that money off the table from a qualifying small business
11:00:10 3 that perhaps needed that money to help make ends meet,
11:00:14 4 keep employees on the payroll, or meet other qualified
11:00:16 5 expenses under this Paycheck Protection Program.

11:00:20 6 This was a sophisticated offense, Your
11:00:24 7 Honor, involving fraudulent information, false personal
11:00:27 8 identifying information, assumed names. It required
11:00:31 9 planning on the defendant's part.

11:00:34 10 As a result of that planning, the
11:00:35 11 defendant obtained this money and spent it not on any
11:00:38 12 businesses or any approved expense rather but on luxury
11:00:45 13 cars, a Rolex watch, nightlife and entertainment.

11:00:49 14 But Your Honor has already addressed in
11:00:50 15 some detail the defendant's criminal history and without
11:00:54 16 going too much further into it, the government would just
11:00:57 17 point out that there are echoes of this offense in some of
11:01:00 18 his previous offenses and convictions, including the use
11:01:03 19 of false identifying information to obtain luxury
11:01:09 20 vehicles. That is an offense dating back from 2014. I
11:01:13 21 believe it's detailed in paragraph 65.

11:01:15 22 THE COURT: Right. Right.

11:01:16 23 MR. GRISIER: Along with that, Your Honor,
11:01:18 24 shortly after his arrest in this case, after he was placed
11:01:21 25 on bond, the defendant was -- almost immediately stepped

11:01:25 1 back and had his bond revoked, and he has indeed been in
11:01:29 2 custody since August 31 of 2020 I believe, well over a
11:01:33 3 year now.

11:01:35 4 All these things being considered, Your
11:01:36 5 Honor, the government would ask -- would suggest that
11:01:40 6 there is a need for deterrence for this particular
11:01:43 7 defendant, and there is a more general need for
11:01:45 8 deterrence, as well for the general public.

11:01:48 9 While the Paycheck Protection Program, I
11:01:50 10 believe, has expired at this time, Your Honor, there is
11:01:52 11 certainly other emergency relief loan programs that come
11:01:57 12 about as a result of Congressional authorization, whether
11:01:59 13 that is due to a hurricane, an economic disaster from time
11:02:03 14 to time, and there is need for that general deterrence for
11:02:07 15 the public when these programs come up to not take
11:02:10 16 advantage of them in the way that the defendant has done.

11:02:12 17 So all those things being considered, the
11:02:15 18 government would advocate for a sentence within the new
11:02:19 19 guideline range and specifically on the higher end of that
11:02:21 20 range, between 130 and 137 months.

11:02:26 21 Also, so we have a clean record as to the
11:02:28 22 defendant's acceptance, the government is moving for the
11:02:31 23 additional point --

11:02:32 24 THE COURT: I saw that in your -- I guess
11:02:37 25 it was in your clarification or objections. It was in

11:02:41 1 your notice of objections and clarification information
11:02:45 2 with respect to the acceptance of responsibility. So that
11:02:49 3 was clear to the Court.

11:02:49 4 So when I granted the defendant's
11:02:52 5 objection with respect to not getting credit for
11:02:56 6 acceptance of responsibility, I counted that third point
11:02:58 7 in there. That is how I got to 26. Obviously, you know
11:03:00 8 that. But I did see that in your statement. So that is
11:03:06 9 why I included that in there.

11:03:08 10 All right.

11:03:08 11 MR. GRISIER: Thank you, Your Honor.

11:03:14 12 THE COURT: The Court will state the
11:03:16 13 sentence at this time. The lawyers will have a final
11:03:20 14 opportunity to make objection before the sentence is
11:03:23 15 imposed.

11:03:30 16 It is the judgment of this Court that the
11:03:36 17 defendant, Lee E. Price, III, is hereby committed to the
11:03:39 18 custody of the Bureau of Prisons to be imprisoned for a
11:03:42 19 term of 110 months as to Counts 1 through 5. All such
11:03:47 20 terms to run concurrently, for a total offense term of 110
11:03:51 21 months.

11:03:53 22 The defendant is before this Court for
11:03:54 23 sentencing. Having pled guilty to two counts of wire
11:03:57 24 fraud and three counts of engaging in monetary
11:04:01 25 transactions in criminally derived property.

11:04:04 1 The defendant submitted five fraudulent
11:04:06 2 paycheck protection program loan applications for
11:04:09 3 assistance authorized by the CARES Act in response to the
11:04:12 4 COVID-19 pandemic. Two of those loans were funded and the
11:04:16 5 defendant received \$1,689,952 in ill-gotten loan proceeds.
11:04:23 6 He used those loan proceeds in a manner that is
11:04:28 7 unpermissible (sic) under the CARES Act and made
11:04:32 8 outlandish purchases, including buying a 2020 F-350 pickup
11:04:37 9 truck, a Rolex valued at more than \$9,000, a 2019
11:04:44 10 Lamborghini worth more than \$200,000 and other
11:04:48 11 expenditures including going to strip clubs, eating out
11:04:52 12 and unfortunately paying off the mortgage on his mother's
11:04:56 13 home.

11:04:57 14 The defendant has an extensive criminal
11:05:00 15 history, beginning at age 16, which has continued
11:05:03 16 uninterrupted absent periods of incarceration. His
11:05:07 17 criminal history is varied and includes convictions for
11:05:11 18 disorderly conduct, involving discharging a firearm; use
11:05:14 19 of counterfeit money; theft; delivery of marijuana;
11:05:19 20 robbery, involving the display of a handgun; driving while
11:05:23 21 intoxicated; fraudulent use; possession of identification.

11:05:27 22 Numerous other charges were dismissed in
11:05:30 23 light of convictions entered in other cases. Twenty-seven
11:05:34 24 arrests and/or convictions in all. The defendant was
11:05:39 25 subject to a term of deferred adjudication, community

11:05:44 1 supervision at the time of this offense.

11:05:45 2 He was also pending trial in six cases and
11:05:48 3 had been released on bond in each of those cases. The
11:05:53 4 defendant's history -- criminal history and conduct in the
11:05:56 5 instant offense paints a picture of an opportunistic
11:06:00 6 offender, who is guilty of greed and has been undeterred
11:06:05 7 by repeated interactions with the criminal justice system.

11:06:10 8 The guidelines appropriately contemplate a
11:06:12 9 significant term of imprisonment, even while accounting
11:06:15 10 for exploitation of a program designed to help businesses
11:06:18 11 in a country struggling with an unprecedented loss due to
11:06:25 12 the COVID-19 pandemic.

11:06:28 13 A term of imprisonment of 110 months is
11:06:34 14 something that the Court believes reflects the purposes of
11:06:38 15 the sentence as set forth in 18 United States Code Section
11:06:40 16 3553. It reflects the seriousness of the offense. It
11:06:46 17 will promote respect for the law. It will provide just
11:06:50 18 punishment. It will deter this defendant and others from
11:06:52 19 engaging in the same sort of criminal conduct. It will
11:06:57 20 protect the public from further crimes of this defendant.

11:07:00 21 Upon release from imprisonment, the
11:07:02 22 defendant shall be placed on supervised release for a term
11:07:04 23 of three years as to each of Counts 1 through 5. All such
11:07:08 24 terms to run concurrently.

11:07:12 25 Three-year term of supervised release is

11:07:14 1 imposed in this case to monitor the defendant, as he is
11:07:19 2 reintegrated in the community to assure that he pays the
11:07:24 3 restitution owed, and that three-year term is to each of
11:07:33 4 Counts 1 through 5 to run concurrently.

11:07:35 5 Within 72 hours of release from the
11:07:37 6 custody of the Bureau of Prisons, the defendant shall
11:07:38 7 report in person to the probation office in the district
11:07:40 8 to which the defendant is released.

11:07:45 9 While on supervised release, the defendant
11:07:46 10 shall not commit another federal, state or local crime;
11:07:49 11 shall comply with the standard conditions that have been
11:07:52 12 adopted by this Court; and any mandatory conditions
11:07:55 13 required by law including the following:

11:07:56 14 You must participate in an outpatient
11:07:59 15 substance abuse treatment program and follow the rules and
11:08:01 16 regulations of that program. The probation officer will
11:08:05 17 supervise your participation in that program, including
11:08:08 18 the provider, location, modality, duration and intensity.
11:08:10 19 You must pay the cost of the program, if financially able
11:08:13 20 to do so.

11:08:13 21 You must not possess any controlled
11:08:16 22 substance without a valid prescription. If you do have a
11:08:18 23 valid prescription, you must follow the instructions. You
11:08:21 24 must submit to substance abuse testing to determine if you
11:08:24 25 have used a prohibited substance. You may not attempt to

11:08:28 1 obstruct or tamper with the testing methods.

11:08:29 2 You may not use or possess alcohol.

11:08:32 3 You must make restitution to the victims

11:08:34 4 totaling \$1,689,952 to the following: Harvest Bank,

11:08:50 5 \$752,452; and the Small Business Administration, \$937,500

11:08:56 6 for the loan that you received through the Radius Bank.

11:09:03 7 You must provide the probation officer

11:09:05 8 with any requested access to any requested financial

11:09:09 9 information and authorized release of that financial

11:09:12 10 information, and the probation office may share that

11:09:17 11 information with the U.S. Attorney's Office.

11:09:22 12 The defendant is also ordered not to incur

11:09:26 13 any new credit charges or open additional lines of credit

11:09:29 14 without approval of the probation officer.

11:09:32 15 The defendant shall pay to the United

11:09:32 16 States a special assessment of \$500 due and payable

11:09:37 17 immediately. The Court finds that the defendant does not

11:09:40 18 have the ability to pay a fine within the guideline range

11:09:42 19 in addition to the restitution that is owed. The fine is

11:09:46 20 waived.

11:09:47 21 The criminal monetary penalties imposed

11:09:51 22 are due as follows: The defendant shall begin payment

11:09:55 23 immediately. Any unpaid balance due in the greater of \$25

11:09:58 24 per quarter or 50 percent of any wages earned while in

11:10:01 25 prison in accordance with the Bureau of Prisons Inmate

11:10:04 1 Financial Responsibility Program. Any balance remaining
11:10:06 2 after release from imprisonment shall be due in monthly
11:10:09 3 installments no less than \$250 per month to commence 30
11:10:12 4 days after release from imprisonment to a term of
11:10:15 5 supervised release. Payment is to be made through the
11:10:17 6 United States District Clerk's Office Southern District of
11:10:22 7 Texas.

11:10:29 8 Mr. Grisier, any reason why the sentence
11:10:32 9 should not be imposed?

11:10:33 10 MR. GRISIER: No. I have two points of
11:10:34 11 clarification to raise possibly. The first is about the
11:10:37 12 restitution. I want to clarify the victims were Harvest
11:10:40 13 Small Business Finance and the Small Business
11:10:43 14 Administration. Radius Bank slash also known as --

11:10:47 15 THE COURT: I said Small Business
11:10:49 16 Administration for the loan that was originally received
11:10:51 17 from Radius Bank. I said "Small Business Administration."

11:10:54 18 MR. GRISIER: Perfect. Thank you. The
11:10:55 19 only other point the government would raise is with regard
11:10:59 20 to any forfeiture --

11:11:00 21 THE COURT: I'm not there yet. I'm on the
11:11:02 22 sentence.

11:11:03 23 Any reason why sentence should not --

11:11:05 24 MR. GRISIER: No, I do not.

11:11:05 25 THE COURT: Mr. Berg?

11:11:07 1 MR. BERG: No, Your Honor.

11:11:09 2 THE COURT: The sentence is imposed as
11:11:10 3 stated.

11:11:11 4 Mr. Price, you can appeal your conviction
11:11:13 5 if you believe that your guilty plea was somehow unlawful
11:11:18 6 or involuntary or if you think that there was some other
11:11:21 7 financial defect in the proceedings that was not waived by
11:11:23 8 you.

11:11:25 9 With few exceptions, any notice of appeal
11:11:26 10 must be filed within 15 days of the date that judgment is
11:11:29 11 entered in this case. If you are without funds to hire an
11:11:31 12 attorney to represent you, you can apply to the Court for
11:11:34 13 in forma pauperis status and counsel will be appointed for
11:11:34 14 you.

11:11:37 15 Do you understand me?

11:11:38 16 THE DEFENDANT: Yes, Your Honor.

11:11:38 17 THE COURT: All right. Now, Mr. Grisier,
11:11:42 18 we can talk about the forfeiture. The sentence first.
11:11:46 19 Always trying to make me forget to impose the sentence by
11:11:49 20 talking about other stuff.

11:11:50 21 MR. GRISIER: I apologize.

11:11:52 22 THE COURT: I have a motion for
11:11:53 23 preliminary order of forfeiture. Was this unopposed,
11:11:55 24 Mr. Berg?

11:11:55 25 MR. BERG: That's correct.

11:11:57 1 THE COURT: I had one question on this.

11:12:06 2 Mr. Grisier, were the funds that were
11:12:11 3 already referenced in the notice to the Court regarding
11:12:14 4 forfeiture, are those already applied to the restitution?

11:12:19 5 MR. GRISIER: Not to the restitution. But
11:12:20 6 to the -- they should be, Your Honor. We have the --
11:12:24 7 there is a process for doing that through -- we ask the
11:12:28 8 agencies who have seized and forfeited those funds. I
11:12:31 9 believe it's called remission, where they can accept
11:12:34 10 petitions. And actually since we'll have a restitution
11:12:36 11 order in this case, we should be able to get those funds
11:12:39 12 back to SBA and Harvest as they come in.

11:12:43 13 THE COURT: Okay. So that is the plan
11:12:44 14 then. Those funds will go to pay off restitution to these
11:12:49 15 victims?

11:12:50 16 MR. GRISIER: Exactly. My understanding
11:12:51 17 is they're waiting on the order to come down after the
11:12:53 18 sentencing.

11:12:54 19 THE COURT: From the Court?

11:12:55 20 MR. GRISIER: Yes, sir.

11:12:57 21 THE COURT: Seems like there was a lot of
11:12:58 22 cash still left that could go to some of the victims for
11:13:01 23 the restitution payments; correct?

11:13:02 24 MR. GRISIER: Yes.

11:13:03 25 THE COURT: That will happen?

11:13:04 1 MR. GRISIER: That will happen. And I
11:13:07 2 believe the vehicles and the Rolex watch have not been
11:13:09 3 auctioned off or sold at this point by the Postal
11:13:14 4 Inspection Service. Once those assets have been
11:13:18 5 liquidated, those funds will be credited --

11:13:22 6 THE COURT: To the victims?

11:13:22 7 MR. GRISIER: Yes.

11:13:23 8 THE COURT: I gotcha. Wanted to make sure
11:13:25 9 I understood.

11:13:26 10 It hasn't happened yet because we need the
11:13:32 11 order in place first.

11:13:34 12 MR. GRISIER: That is my understanding.

11:13:34 13 THE COURT: Somebody will get a
11:13:36 14 Lamborghini for cheap, huh?

11:13:39 15 MR. GRISIER: Indeed, Your Honor.

11:13:40 16 THE COURT: Oh, my goodness.

11:13:44 17 I wanted to make sure that I understood
11:13:47 18 language I was concerned about, and I wanted to ask you if
11:13:53 19 this was the way that the language needed to be stated.

11:13:59 20 It says: The real property at 10718
11:14:02 21 Staghill Drive is forfeited to the United States.

11:14:04 22 And then it says: Pursuant to -- then it
11:14:07 23 says: Limited to a lien against the property in the
11:14:09 24 amount of \$50,000.

11:14:11 25 So why does it say that it's forfeited as

11:14:15 1 opposed to just, there is a lien against the property in
11:14:18 2 favor of the United States in the amount of \$50,000?

11:14:21 3 What's with that language?

11:14:23 4 MR. GRISIER: I thought that the
11:14:24 5 limitation would be sufficient to cover that concern. It
11:14:26 6 was a concern of ours as well. In drawing up the
11:14:29 7 financial order of forfeiture, we can amend that to make
11:14:32 8 it clearer -- as clear as possible that it is a lien --

11:14:36 9 THE COURT: I don't really want the words
11:14:38 10 "forfeited" to be in here. I don't feel comfortable
11:14:41 11 signing an order saying his mother's property that she
11:14:45 12 lived and paid a note on for 20 years is being forfeited
11:14:47 13 to the United States.

11:14:48 14 Why can't we say that the real property is
11:14:51 15 subject to a lien against the property in the amount of
11:14:56 16 \$50,000?

11:14:58 17 MR. GRISIER: No reason we can't.

11:14:59 18 THE COURT: That is what I'm going to do.
11:15:01 19 I don't feel like writing this word that her property is
11:15:01 20 forfeited to the United States.

11:15:06 21 The real property at Staghill Drive I'm
11:15:09 22 going to put is "encumbered" instead of "forfeited."

11:15:14 23 MR. GRISIER: Yes, Your Honor.

11:15:19 24 THE COURT: To the United States, limited
11:15:21 25 to a lien against the property in the amount of \$50,000.

11:15:26 1 And then can she pay on that as well?

11:15:32 2 MR. GRISIER: I'm not sure. That's sort
11:15:33 3 of the purpose of -- I think there is an ancillary hearing
11:15:37 4 on that where Ms. Price will be given notice to appear at
11:15:43 5 that hearing if she wishes to contest it and make
11:15:45 6 representations that she has.

11:15:47 7 As far as her ability to pay, I'm not sure
11:15:50 8 what that is. It may also be satisfied at such a time
11:15:59 9 that the house is sold I believe. It essentially operates
11:16:03 10 as a lien against the house.

11:16:06 11 THE COURT: I know. But I'm assuming that
11:16:07 12 the house she lived in for 20 years she didn't have any
11:16:11 13 immediate plans to put it on the market.

11:16:13 14 MR. GRISIER: I would assume not as well.
11:16:15 15 At such a time in the future, that may be possible.

11:16:19 16 THE COURT: All right. We have to set --
11:16:20 17 you want to set a hearing on the final forfeiture?

11:16:24 18 MR. GRISIER: We'll give notice --

11:16:26 19 THE COURT: Because of her situation?

11:16:28 20 MR. GRISIER: Yes, Your Honor. I think
11:16:29 21 that is covered in Rule 35.

11:16:34 22 THE COURT: She'll have an opportunity to
11:16:36 23 speak at that point?

11:16:37 24 MR. GRISIER: Yes.

11:16:39 25 THE COURT: All right. Anything else?

11:17:01 1 MR. BERG: No. We had agreed to a lien.

11:17:03 2 So that is correct.

11:17:06 3 THE COURT: All right. It says that the
11:17:08 4 home is "encumbered." It's not going to say it's
11:17:11 5 forfeited. I don't like that.

11:17:18 6 All right. Anything else from the United
11:17:20 7 States?

11:17:20 8 MR. GRISIER: No, Your Honor. Thank you.

11:17:21 9 THE COURT: Mr. Berg?

11:17:23 10 MR. BERG: My client would request
11:17:25 11 designation to Bastrop.

11:17:26 12 THE DEFENDANT: Yes.

11:17:27 13 THE COURT: It's the further
11:17:27 14 recommendation of this Court that the defendant be
11:17:29 15 incarcerated at Federal Bureau of Prisons Bastrop if that
11:17:35 16 is available and appropriate.

11:17:36 17 Anything else?

11:17:37 18 MR. BERG: No, Your Honor.

11:17:39 19
20 (Proceedings concluded.)

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1 C E R T I F I C A T E

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4
5 I hereby certify that pursuant to Title 28, Section 753
6 United States Code, the foregoing is a true and correct
7 transcript of the stenographically reported proceedings in
8 the above matter.

9
10 Certified on January 12, 2022.

11
12 /s/ Nichole Forrest
13 Nichole Forrest, RDR, CRR, CRC

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